

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Civil Action No. 04-11032-DPW

WILLIAM M. BYRD,

Plaintiff,

v.

AVENTIS PHARMACEUTICALS, INC.
and DEBRA EDMUNDS,

Defendants.

AFFIDAVIT OF WILLIAM M. BYRD

I, William M. Byrd, having been duly sworn, under oath, do depose and say as follows:

1. I am an African American, who was born on October 29, 1948.
2. Mark Miles accompanied Ms. Edmunds and I in the field on only one occasion (as referenced in the Defendants' Motion for Summary Judgment) in December of 1999. Ms. Edmunds informed me that it was company policy for him to accompany her in the field, but he never got out of my car. During the same week, Mark Miles also accompanied Ms. Edmunds and other sales representatives in the field. On January 20, 2000, Mark Miles provided me with a positive letter from his day in the field with me, a true copy of which is attached as Exhibit A hereto.
3. In mid 2000, the three (3) oldest sales representatives reporting to Ms. Edmunds were Ernie Simone, Robert Santori and myself. At the time, Mr. Simone was about my age (around 50) and Mr. Santori was in his late 40s. The other sales

representatives reporting to Ms. Edmunds were in there 20s or early 30s. All of the sales representatives were Caucasian.

4. On September 25, 2000, I met with Ms. Edmunds to go over my mid year review. This mid-year review by Ms. Edmunds was completely inaccurate and negative. Christine List informed me that she also told Ms. Edmunds that it was to negative.

5. On October 14, 2000, Ms. List spent a day in the field with me to see if she had the same assessment of me as Ms. Edmunds. After accompanying me, Ms. List informed me to keep doing what I was doing. I never was given or saw a copy of the purported memorandum prepared by Ms. List of her day in the field with me.

6. During the years 2000 and 2001, I received several awards and accolades from Aventis including the National Marketshare leader in 2000, Ranked # 2 overall; Ring attainment for "Exceeding Sales Goals" in 2000, and he was presented with a Ring by Aventis; National Marketshare leader in 2001, Ranked # 5 overall; Growth and overall Marketshare leader in 2001, Ranked # 2; Allegra Marketshare growth leader in 2001, Ranked # 1 in Northeast; and Accomplished Amaryl highest quota attainment of 110% in 2001.

7. During my employment with Aventis, I was regularly given exams to test my product knowledge. I passed all my exams, scoring highly on these exams.

8. Prior to this litigation, I never saw the "Field Sales New Hire Information Form" attached as Exhibit B to the Declaration of Ms. Edmunds, nor does it contain my handwriting, wherein Ms. Edmunds claims I misrepresented my credentials to Hoechst Marion Roussel. Also, I do not recall ever seeing Aventis' job description for

pharmaceutical representative attached as Exhibit A to the Declaration of Ms. Edmunds, which I assume is a copy of Aventis' current policy.

9. I had a good relationship with my two (2) previous Area managers, Sean Flanders and David Pearlstein, and I received excellent reviews and feedback from them.

10. In early 2001, I was asked to participate in a charity golf tournament held by the New England Chapter of the National Football League Players Association. I provided the information to Ms. Edmunds for her approval of the event, and she approved a foursome for me and also requested that I provide the information to PCP2 and PCP6 sale groups in my District at Aventis.

11. PCP2 and PCP6 also committed to a foursome at the tournament. Joe Ferney the Area Manager for PCP6 committed to the event but subsequently dropped out; Marcia Boland a sales representative for PCP6 had a physician that committed to the event but subsequently dropped out; and Kathy Grose a sales representative for PCP2 had a physician that committed to the event but subsequently dropped out.

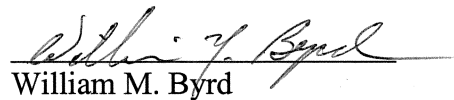
12. By letter dated April 9, 2001, the NFLPA of New England confirmed the two (2) foursomes and provided an Invoice to Aventis for tax purposes. At that time, I provided Ms. Edmunds with a copy of the information provided to me, a true copy of the information is attached as Exhibit B hereto.

13. The only ones that showed up for PCP2 and PCP6' foursome was Gerard Graham, a sales representative for PCP6, and one physician. Consequently, Gerard Graham paid at least \$1,000.00 for one physician. I played golf with five people that day: Dr. S. Mackler, Dr. E. Mackler, Dr. T. Nixon and Dr. S. Mackler's daughter were my guests on the day of the tournament, and the celebrity golfer paired with us was my

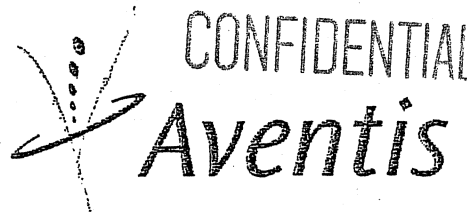
brother George Byrd a former NFL player for the Buffalo Bills. Dr. Brown and Dr. Caplan committed to the event but subsequently dropped out.

14. Despite getting prior approval, this event was one of the main reasons I was terminated, and none of the other sales representative was even questioned on it. In fact, Kathy Grose has since been promoted to Area Manager.

Signed under the pains of penalties of perjury this 7 day of April, 2005.


William M. Byrd

2002-17P



MEMO

To: Bill Byrd
From: Mark Miles
Date: January 20, 2000
CC: ~~Deb Edmunds~~/file

Dear Bill,

Sorry for the lateness of this letter. As you know, things have been hectic. At any rate, I just wanted to say thanks again for the great day we spent together last month. I enjoyed our time together and getting to know you a little better.

Bill, it is obvious you have established great rapport in your accounts, and I am pleased with your progress and appreciate all your efforts to date in your territory. Thanks also for your openness and candor during our discussion about your career goals. Let me assure you that both Deb and myself are committed to your further growth and will help in any way we can.

Again, it was a great day together, and I look forward to spending another with you again soon.

Best regards,

A handwritten signature in dark ink, appearing to read 'Mark Miles', written in a cursive style.

Mark Miles
Regional Director

MM/rd

DEF00063



NFLPA of New England

Corporate Sponsorship Notification

Date: April 9, 2001

William M. Byrd
Aventis Corporation
Sales Associate Commercial Sales
38 Meadowview St.
Milton, MA. 02186

Dear Bill,

The New England Chapter of the National Football League Players Association (NFLPA) will hold its First Annual Golf Classic at the Sandy Burr Country Club in Wayland, Massachusetts, on June 8, 2001. The NFLPA, a national organization is comprised of 31 chapters located across the United States. These chapters were established to support youth education programs; to raise funds for the Players Assistance Fund, and through the use of a network of current and former NFL players continue to promote the image of the game by participating in local community activities.

This year proceeds from our golf tournament will go to the Massachusetts Adoption Resource Exchange (MARE) commonly associated with Jack Williams Wednesday's Child. MARE is committed to finding homes for children with special needs. Special needs such as children who are older, mixed racial backgrounds and coping with physical and emotional handicaps.

We have invited sports figures and legends to participate this year. Those expected include Gene Upshaw, former Oakland Raider and Hall of Famer who currently serves as President of the NFLPA, and Bob Kraft, owner of the New England Patriots. Invitations have also been extended to many former Patriots such as Gino Cappelletti, Tim Fox, Steve Nelson, Pete Brock, Steve Grogan, Mosi Tatupu, and Hall of Famer John Hannah, to name a few. We are hopeful that some of the current New England players will participate as well.

Sandy Burr Country Club Directions:

Take 128 North or South to Exit 26 (Route 20) Take Route 20 West to Route 27 South. Take Route 27 South for One Mile.Sandy Burr will be on your right.

Thank you for participating in this most worthy event. We are thrilled to have you as a sponsor for our inaugural tournament. An invoice is enclosed with this letter. Payments should be made out to the NFLPA of New England and mailed to:

David H. O'Brien
Treasurer - NFLPA of New England
66 Emerson Road
Watertown, MA 02472

If you have any questions, please call me at 800.379.9929 or 781.643.8903.

Sincerely,

Thomas Yewcic
Tournament Director and
Public Relation Mar.

NFLPA of New England
Corporate Sponsorship Invoice

Date: April 9, 2001

CORPORATE NAME

Aventis Corporation

CORPORATE SPONSORSHIP INVOICE

\$ 2000.00

Entitles you to:

- *Play in a five-some that includes a celebrity.*
- *Tee packages for each player.*
- *Signage acknowledging corporate sponsor name displayed at one of 18 tees or greens.*

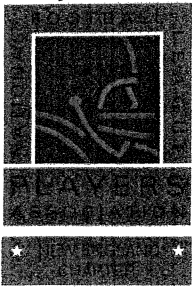
BREAKDOWN FOR SPONSOR'S ACCOUNTING PURPOSES:

- | | |
|--|----------------------|
| • <i>Advertising/Promotional expense</i> | \$ 1200.00 |
| • <i>Entertainment expense (4 @ \$200)</i> | <u>800.00</u> |
| • <i>Total</i> | \$ 2000.00 |

Please remit to:

*David H. O'Brien
Treasurer - NFLPA of New England
66 Emerson Road
Watertown, MA 02472*

Thank you for your support!



NFLPA of NEW ENGLAND

First Annual *Charity Golf Tournament*

DATE: June 8, 2001

LOCATION: Sandy Burr Country Club, Wayland, Massachusetts
Telephone: 508-358-7211

SCHEDULE OF EVENTS:

<i>9:30 AM</i>	<i>Registration (Players receive tee packages)</i> <i>Coffee and donuts will be available</i>
<i>10:45 AM</i>	<i>Report to starting tees</i>
<i>11:00 AM</i>	<i>Shotgun</i> <i>Beverages and Lunch available on the course</i>
<i>5:30 PM</i>	<i>Hors d'oeuvres, Buffet and Awards presentation</i>

FORMAT:

Shotgun Scramble - 36 Fivesomes

ONE SPORTS LEGEND

and four player/sponsors

PRIZES: Closest to the pin on all par threes and for the Longest Drive on the hole.

Prizes will be awarded to the top three finishers.

NFL Players Association
First Annual Golf Tournament

June 8, 2001

Sandy Burr Country Club - Wayland, Massachusetts

1st Name: _____

Company Name (if corporate team): _____

Address: _____

Telephone: _____

Fax: _____ **E-Mail:** _____

Handicap: _____

Golf Club Name and Telephone Number (for verification)

Name: _____

Telephone Number: _____

Shirt Size: _____

2nd Name: _____

Company Name (if corporate team): _____

Address: _____

Telephone: _____

Fax: _____ **E-Mail:** _____

Handicap: _____

Golf Club Name and Telephone Number (for verification)

Name: _____

Telephone Number: _____

Shirt Size: _____

3rd Name: _____

Company Name (if corporate team): _____

Address: _____

Telephone: _____

Fax: _____ **E-Mail:** _____

Handicap: _____

Golf Club Name and Telephone Number (for verification)

Name: _____

Telephone Number: _____

Shirt Size: _____

4th Name: _____

Company Name (if corporate team): _____

Address: _____

Telephone: _____

Fax: _____ **E-Mail:** _____

Handicap: _____

Golf Club Name and Telephone Number (for verification)

Name: _____

Telephone Number: _____

Shirt Size: _____

May 14, 2001

Tom,

Listed below are the names of the Aventis golfing participants.

Team 1

William Byrd
S. Mackler
E. Mackler
T. Nixon

Team 2

J. Ferney
S. Ross
T. Kokolski
F. Fraoli